



**Request for City Council Committee Action
From the City Attorney's Office**

Date: June 19, 2012
To: Ways & Means/Budget Committee
Referral to:

Subject: 1. Westermann v. City of Minneapolis
Court File No.: 27-CV-11-13678

2. ABM Industries v. City of Minneapolis

Recommendation: 1. That the City Council approve the settlement of this case by payment of \$33,000.00 payable to Dawn Westermann and her attorneys, Woods & Thompson, from Fund/Org. 06900-1500100-145650 and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

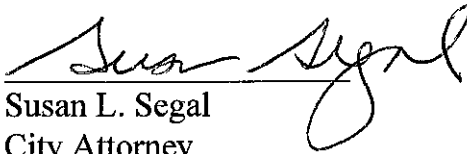
2. That the City Council approve the settlement of this case by payment of \$20,000.00 payable to ABM Industries from Fund/Org. 06900-1500100-145650 and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

Previous Directives: None

Prepared by: Thomas J. Miller

Phone: (612) 673-2897

Approved by:


Susan L. Segal
City Attorney

Presenter in Committee: Susan L. Segal, City Attorney

Financial Impact:(Check those that apply)

- ☐ No financial impact (If checked, go directly to Background/Supporting Information).
- ☐ Action requires an appropriation increase to the ☐ Capital Budget or ☐ Operating Budget.
- ☐ Action provides increased revenue for appropriation increase.
- ☐ Action requires use of contingency or reserves.
- ☐ Business Plan: ☐ Action is within the plan. ☐ Action requires a change to plan._
- ☒ Other financial impact (Explain): \$53,000.00 from Fund/Org. 06900-1500100-145650
- ☐ Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Other

Background/Supporting Information:

On the afternoon of 4/15/09, Dawn Westermann was on the job as a Security Officer for ABM Industries, traveling to different sites. She was closing the gates to the sludge pits and shipping and receiving at the Minneapolis Water Works on Marshall Street as part of her patrol. Ms. Westermann had closed one gate and was closing the second gate, when the hinges on the door broke free and the entire gate, weighing 600 pounds, fell onto her.

As a result of the accident, Ms. Westermann sustained injuries, over \$36,068.36 in medical treatment expenses and \$3,899.00 in wage loss. She continues to suffer symptoms as a result of her related injuries. Her employer, ABM Industries, paid a portion of Ms. Westermann's medical costs and all of her wage loss. ABM now asserts their statutory subrogation right relative to workers' compensation payments made.

Following extensive negotiations with her attorney, we have reached a tentative settlement of Ms. Davis' personal injury claims and ABM Industries' workers' compensation subrogation claim, against the City in the amounts of \$33,000.00 and \$20,000.00 respectively. These proposed settlements have been discussed with the Public Works Department and they are in agreement with the terms. We believe that the settlements are in the best interests of the City and recommend approval by this Committee.

TJM / 09-15133